

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

CASE NO. 6:21-cv-666

BRUCE MUNRO,

Plaintiff,

v.

UNITED STATES COPYRIGHT OFFICE,
REGISTER OF COPYRIGHTS,

Defendant(s).

COMPLAINT & PETITION FOR REVIEW

1. This action is for registration of copyright on the three-dimensional sculptural work of fine and applied art the subject of application serial no. 1-8001227961 (the “’961 Application”) and review of final agency action by the Register of the United States Copyright Office on the ‘961 Application for registration. 17 U.S.C. §§ 101, 701(e).

2. Plaintiff Bruce Munro (“Munro”) is an acclaimed international artist residing in England and applicant for registration on the ‘961 Application. Munro, whose creative, original artwork and sculptures have been exhibited at hundreds of top-tier galleries, museums, gardens, and public spaces around the world, is a recognized leader in the installation art movement. *E.g.*, Richman-Abdou, K., *What is Contemporary Art? An In-Depth Look at the Modern-Day Movement*, MY MODERN MET (Aug. 11, 2019) (“[I]nstallation art is an immersive medium of art. ... Well-known installation artists include Yayoi Kusama, Dale Chihuly, and Bruce Munro.”).

3. Defendant(s) United States Copyright Office is the federal office that reviews applications for and issues copyright registrations and its Register of Copyrights is Shira Perlmutter (collectively “Register”). Register is located at 101 Independence Ave., S.E.,

Washington, D.C. 20559-6000 and is considered an agency for purposes of the Administrative Procedures Act (“APA”). 5 U.S.C. § 701(b)(1); 17 U.S.C. § 701(e).

4. The Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 & 1338 (federal question & copyrights), 17 U.S.C. § 101, et seq. (the Copyright Act), and 5 U.S.C. § 500, et seq. (the APA)). Venue under 28 U.S.C. § 1391 is proper as application for registration on the ‘961 Application was made and communicated in substantial part from this district by a representative of Munro.

5. Munro on August 24, 2019 filed for copyright registration on the three-dimensional sculptural work of fine and applied art that is the subject of the ‘961 Application.

6. Following Register’s initial refusal to register, Munro timely filed a First Request for Reconsideration on November 23, 2019 and a Second Request for Reconsideration on July 24, 2020.

7. Register’s final denial of registration is dated May 27, 2021 (“Final Denial”) and constitutes final agency action under the APA and Register’s promulgated rules (37 CFR § 202.5(g)).

8. Register’s Final Denial is subject to reversal under the APA, the United States Constitution, and Register’s authorizing federal statute (17 U.S.C. § 101, et seq.), including because,

a. The combination of all elements of the three-dimensional sculptural work of fine and applied art that is the subject of the ‘961 Application is an original protectable expression that possesses the “minimal degree of creativity” required by *Feist Publications, Inc. v. Rural Telephone Service*, 499 U.S. 340 (1991);

b. Contrary to its authorizing statute, regulations, and guidelines, Register (i)

did not review a three-dimensional sample of the work (as offered via the Second Request for Reconsideration), and (ii) refused to review and consider all elements of the three-dimensional sculptural work of fine and applied art that is the subject of the '961 Application in combination to determine and assess its "minimal degree of creativity" and originality.

9. The Final Denial is contrary to the Constitution, contrary to statutory authority and jurisdiction of the agency; not supported by competent, material, and substantive evidence; arbitrary, capricious, an abuse of discretion; and not in accordance with law.

10. Munro therefore requests judgment against Defendant(s): (a) reversing the Register's registration denial and compelling copyright registration on the three-dimensional sculptural work of fine and applied art that is the subject of the '961 Application; (b) awarding Munro as allowed by law all court costs and attorney fees wrongly incurred; and (c) awarding all other relief to which Munro may be entitled or as the Court may deem just, equitable, necessary, proper and/or appropriate under the circumstances.

11. Munro demands trial by jury of all issues so triable on this Complaint.

Dated: June 25, 2021

Respectfully submitted,

/s/Carl F. Schwenker

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